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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ERVIN MIDDLETON,

Plaintiff(s),

v.

BAC HOME LOAN SERVICING LP,

Defendant(s).

2:13-CV-1376 JCM (CWH)

ORDER

Presently before the court is defendant BAC Home Loan Servicing LP's motion to dismiss for lack of proper service and failure to state a claim. (Doc. # 8). Though the response deadline has passed, *pro se* plaintiff Ervin Middleton has not filed an opposition.

Defendant argues that plaintiff fails to support his claims under the Fair Debt Collection Practices Act and Fair Credit Reporting Act with sufficient factual allegations to satisfy the standard set by Federal Rule of Civil Procedure 12(b)(6). Defendant also asserts that it has never properly been served in this matter, and therefore the complaint should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(5).

Failure to follow the local rules of a district court may constitute a proper ground for dismissal. *United States v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). "Before dismissing the action, the district court is required to weigh several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability

1 of less drastic sanctions.” *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (internal citation
2 omitted).

3 Local Rule 7-2(d) provides that the failure of a party “to file points and authorities in
4 response to any motion shall constitute a consent to the granting of the motion.” In consideration of
5 the extremely generalized nature of plaintiff’s complaint, plaintiff’s failure to file an opposition, the
6 interest in expeditious resolution of litigation, the court’s need to manage its docket, the risk of
7 prejudice to defendant, the public policy favoring disposition of cases on their merits, and the
8 availability of less drastic sanctions, the court finds that dismissal without prejudice is appropriate.

9 Accordingly,

10 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant’s motion to
11 dismiss (doc. # 8) be, and the same hereby is, GRANTED.

12 IT IS FURTHER ORDERED that plaintiff’s complaint shall be dismissed without prejudice.
13 The clerk of the court is instructed to close the case.

14 DATED July 1, 2014.

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17 **UNITED STATES DISTRICT JUDGE**